

California Commission on Health and Safety and Workers' Compensation

MINUTES OF MEETING

Thursday, May 6, 1999

Sacramento, California

In Attendance

Chair Kristen Schwenkmeyer
Commissioners Jill A. Dulich, Gerald O'Hara, Leonard C. McLeod, Tom Rankin,
Robert B. Steinberg, John C. Wilson
Executive Officer Christine Baker

Not In Attendance

Commissioner Darrel "Shorty" Thacker

Call to Order / Adoption of Minutes

Chair Kristen Schwenkmeyer called the meeting to order at 10:00 am.

Commissioner Rankin moved to adopt minutes of the February 26, 1999 CHSWC meeting in Los Angeles. Commissioner Wilson seconded, and the motion passed unanimously.

Report: David Bellusci, Senior Vice President and Chief Actuary, WCIRB

Ms. Schwenkmeyer introduced David Bellusci, Senior Vice President and Chief Actuary with the Workers' Compensation Insurance Rating Bureau (WCIRB). Mr. Bellusci presented the WCIRB's report *Evaluation of 1993 Legislative Changes*.

Mr. Bellusci advised that the WCIRB report (1) evaluated the savings resulting from 1993 workers' compensation legislative changes and (2) described how premiums, losses and insurers' results are currently impacted.

1. EVALUATION OF SAVINGS RESULTING FROM 1993 LEGISLATIVE CHANGES.

To evaluate the impact of the 1993 legislative package and then adjust historical projections for various quantifiable elements, savings must be looked in different contexts, including premium savings and the reduction in the cost of benefits.

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In 1992, the average premium paid by an employer was \$1200 for each covered full-time employee. By 1998, that number dropped to approximately \$700 for a reduction of \$487 per employee.

The WCIRB wanted to determine how much of the premium reductions from 1992 to 1998 were due to (a) shifts in dividends (b) reduced costs and/or (c) competitive pricing.

Shifts in Dividends

Mr. Bellusci indicated that of the \$487 premium reduction for each covered employee from 1992 to 1998, approximately \$140 was a shift in dividends. Although employers previously paid 10% to 15% more in premiums prior to open rating, they received it back as a dividend upon policy expiration assuming a good loss experience. With the current emphasis on up-front pricing, the dividend for the most part has been eliminated. So, while there is a premium reduction, it's not a savings.

After accounting for the effect of up-front pricing on premium, insured employers realized nearly a \$3 billion annual saving or approximately \$360 savings per covered employee.

Reduced Cost

Mr. Bellusci indicated that of the \$487 premium reduction for each covered employee from 1992 to 1998, \$187 of it reflected reduced benefit and expense levels.

To state it another way, more than half of the nearly \$3 billion savings (net dividend impact) or \$1.5 billion, resulted from the reduced cost of benefits.

The WCIRB considered a number of areas impacted by 1993 reform legislation – vocational rehabilitation, medical-legal costs (new schedule as well as procedures to minimize the number of reports), medical costs, psychiatric injuries, post-termination claims and the cost of benefit increases. The largest savings were realized in the area of vocational rehabilitation. However, any savings due to reforms in vocational rehabilitation, medical-legal, psychiatric injuries and post terminations claims were just about off-set by benefit increases.

WCIRB believes that the decline in claim frequency alone accounted for the major savings. Decline in frequency was attributed to many factors including pulling out of a recession in the early 90s and implementation of fraud programs.

Competitive Pricing

Mr. Bellusci indicated that of the \$487 premium reduction for each covered employee from 1992 to 1998, \$172 of the reduction resulted from competitive

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pricing. That accounted for nearly half – or \$1.3 billion – of the \$3 billion savings to insured employers (net dividend impact).

2. DESCRIPTION OF CURRENT PREMIUMS, LOSSES AND INSURERS' RESULTS

Mr. Bellusci provided a demonstration of indexed rates for an employer. While an employer may have been paying \$1 per \$100 of payroll in 1989, that amount steadily decreased with the exception of one year. As of 1998, the same employer would only be paying \$.64 premium per \$100 of payroll. Essentially, premium levels peaked in 1993 at \$9 billion and then dropped approximately \$3 billion dollars to current levels. While there has been a small increase in total premium over the last couple of years, the increase is a function of higher wages upon which premium is based, an expanding workforce and some movement of the self-insured employers back to insurance.

On the claims side, an increase in severity is seen. While the frequency – number of claims per worker – is decreasing, the average cost – severity – is increasing. From 1994 to 1998, the average lost time claim went from around \$17,000 to \$25,300. The increasing severity is attributed to a number of possible factors: different claim mix, increased benefit levels, the treating physician presumption and higher PD ratings.

Questions and Comments

Commissioner Rankin asked if the loss figures were adjusted for inflation. Mr. Bellusci advised these are estimates of ultimate claim costs and are not adjusted for inflation.

Commissioner Rankin asked for an estimate of inflation from 1989 through 1998. Mr. Bellusci advised it was around 3% per year and agreed that that it was somewhat higher than 30% for the 10 years in question. He commented that when the combined ratio – combined losses and expenses insurers will ultimately pay – gets over 110%, insurers may not have profits in spite of the investment returns. Commissioner Rankin asked if insurers were losing money. Mr. Bellusci advised that California insurers are not losing money but have one of the smallest returns of any state in the country.

Commissioner Wilson stated that when Mr. Bellusci spoke the week before, he had indicated that 116% combined loss ratio was the break point and not 110%. Mr. Bellusci advised that while 116% sounded reasonable, he hadn't gone through the process of calculating. However, the WCIRB is concerned about potential under reserving of claim files. WCIRB projects that for each dollar collected in premium for 1997 and 1998, around \$1.33 will go out. That high of a level cannot be offset by even of the highest of investment returns.

Mr. Bellusci commented that many are surprised how long the pricing levels have been in effect with open rating. However, the insurers had some "good years" prior to open rating

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and some 'take down' on reserves helped results for later years. Also, there was a lot of capacity with the HMOs moving in as well as some attractive reinsurance rates.

Commissioner Rankin asked for an accounting of the increase in the expense factor from 26% to 38%. Mr. Bellusci advised that some expenses do not decrease proportionately to the decrease in premium such as claims adjustment expense.

Mr. Bellusci advised that concerns have been expressed that with deregulation and competitive pricing, the market would shrink such as in Oregon. While there has been a lot of movement in the market, this is still a competitive pricing market. In 1994, the year before open rating, the top 10 insurers wrote about 60% of the market. Now, it is around two-thirds. In 1994, national companies wrote about 45% of the California market. By 1998, they held about 60% of the market. The State Fund market shares have held relatively constant.

Status Report on *The Role of the Treating Physician*

Chairperson Schwenkmeyer requested that Christine Baker, Executive Officer, lead the Commission through the various presentations.

Ms. Baker reported that the Commission has been engaged in a study of the role of the treating physician in workers' compensation and that the draft study report has been made available to the public for comment.

Dr. Phil Wagner, a treating physician, had requested presentation time but was unable to attend because of a family emergency. The California Medical Association sent a letter regarding the U.C. Berkeley's draft report regarding the treating physician. Ms. Baker asked Frank Neuhauser, Project Manager, UC Berkeley Survey Research Center to comment.

Mr. Neuhauser said that he is aware of only one concern about the report and that concern may be the result of a misunderstanding. While the report recommends that the Legislature reconsider the presumption of correctness granted to the treating physician, it does not recommend changing the treating physician's role created through the 1993 legislation.

Mr. Neuhauser indicated that CMA's comments as well as others in the community view the two issues -- presumption of correctness and the primary treating physicians' role -- as inextricably combined. In other words, if the presumption were eliminated, the legislature also would drop the increased role of the treating physician. However, that is not what the report is meant to imply. They are two separate issues.

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Report: Effects of Reform – Labor Code §4065 and ‘baseball arbitration’

Larry Swezey, Attorney at Law, Legal Consultant

Ms. Baker advised that the Commission, as part of its mandate, has been studying the effects of reforms on the workers' compensation system. She asked Larry Swezey, legal consultant to the Commission, to report.

Mr. Swezey presented a brief case law history that had established a workers' compensation judge's authority to resolve divergent views of medical experts by a finding within the range of the evidence with respect to Permanent Disability. However, 1993 legislation eliminated this well-established rule with Labor Code §4065, which limits the WCJ or Board to choosing between a permanent disability rating proposed by either party. Reportedly some WCJs have complained that this statutory section sometimes necessitates choosing between an inordinately high or an inordinately low evaluation, when the WCJ believes the truth lies somewhere in the middle.

While only a few cases actually go through Labor Code §4065, the section's presence has an impact. First, other sections provide an ability to avoid application of §4065. Second, some are concerned that it could lead to unjust awards that are either too high or too low. Third, a reasonable report may be ignored because the WCJ disagrees with one element of the report, such as apportionment. Fourth, the section could drive a wedge between the applicant's attorney and the injured worker as the attorney looks for a report that the WCJ finds reliable.

Mr. Swezey suggested that the Commission consider either recommending that Labor Code section be repealed or adding the issue to the Commission's permanent disability project by RAND.

Commissioner Rankin asked if there were any figures on how many cases used baseball arbitration. Mr. Swezey advised that there are no figures. Commissioner Steinberg wanted to know how this section's presence was raised to the level of their attention. Mr. Swezey advised that a DWC area manager brought it up as a concern -- how should the law be applied as it's written. Commissioner Steinberg also wanted to know if the issue raised in Labor Code §4065 is limited to PD or is it more encompassing? Mr. Swezey indicated that this is a PD issue.

Ms. Baker said that the judges have indicated that parties resort to strategies that complicate the system in order to avoid use of Labor Code §4065 and baseball arbitration. Mr. Swezey provided examples where a party will object to an issue just so Labor Code §4062 applies instead of Labor Code §4061 that triggers application of baseball arbitration (Labor Code §4065).

Commissioner Rankin commented that he did not remember any particular group advocating the creation of baseball arbitration. He said he would be willing to move that

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the Commission recommend elimination of Labor Code §4065 unless audience members thought the issue should be further studied.

Questions and Comments

Willie Washington, representing the California Manufacturers Association, agreed with Commissioner Rankin that none of the entities that participated in the reform wanted baseball arbitration and that it was not an issue with those he represents. However, he objected to the Commission recommending a change based on anecdotal information. He recommended that more definitive study establishing why it should be eliminated and statistics gathered to support further study of the issue. Mr. Washington stated that this Labor Code section is linked to the PD study. He also expressed concern that the legislator who wrote Labor Code §4065 may object to its elimination.

CHSWC Action

Commissioner Steinberg suggested and Commission Rankin moved that the baseball arbitration issue (Labor Code §4065) be made a part of the Commission's PD study by RAND. Commissioner Wilson seconded and the motion passed unanimously.

Report: Workers' Compensation Information System – Labor Code §138.6

Jim Bellows, Manager, DWC Research Unit

Jim Bellows reported that the information system is being developed in response to Labor Code §138.6. The legislation resulted from frustration with the lack of data at the time of previous reforms. Parties were unable to find data on essential issues relevant to system performance and the potential impact of reforms. The statute established four objectives for the information system:

- help DWC manage the workers' compensation system effectively and efficiently;
- facilitate evaluation of the benefit delivery system;
- assist in measuring benefit adequacy; and,
- provide statistical data for further research.

In 1993, the DWC initially contracted with the University of California which proposed an overall architecture for the information system. Over a three-year period, an advisory task force has met. The proposed system has three components: (1) gathering basic information on every workers compensation claim in California from all insurers, third party administrators, and self-insured, self-administered employers; (2) getting data from DWC's internal cases before the Board, with the disability evaluation unit or in other stages in which the Division is involved in case handling; and (3) the capability for doing

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special supplemental surveys. The third component is necessary to handle the legislative mandates particularly with respect to measuring benefit adequacy that requires data collection on impacted injured workers beyond what is available through the claims administrators' reporting.

Mr. Bellows reported that the collection of claims data through the electronic data interchange (EDI) – the first component of the design – is the current focus. Reporting will begin September of this year. The division believes many of the claims administrators will contract with commercial service providers who will help them package, format, and deliver the data. Some claims administrators may build their own solutions.

Once the claims reporting component is operational, the system will produce a series of standard reports. A group of reports will address *injury frequency* set on promptness of benefit delivery and all the important milestones of the case; the *total payments*; *injury outcomes* including both return-to-work and PD outcomes; and *medical services delivered* including the types of practitioners who deliver them and the outcome experience as it might differ from one class of provider to another.

Additionally, the system has data feed capability that will provide other agencies with series of data extracts. For example, the division's audit unit will be able to review data for claims handling patterns – such as delayed first payments -- to assist in targeting audits. The system data would not be used for specific claim file performance, but as a means for broad-based analyses.

Mr. Bellows reported that a data feed might go to the Division of Occupational Safety and Health to assist with targeting high-hazard employers. Division of Labor Statistics and Research (DLSR) also will have a data feed. Currently, three million pieces of paper per year are sent to DLSR. Electronic data transfer will eliminate the claims administrators' current responsibility for sending the paper. The Department of Health Services which is required to track some occupational illnesses will also have access to a data feed.

Mr. Bellows indicated that, in addition to the standard reports and data feeds, the proposed system will be capable of producing special reports for policymakers. There is also a provision to provide data extracts for what the statute defines as bona-fide statistical research that could include research conducted by or on behalf of the Commission.

Reportedly, future extensions not currently in the design plans may include: (a) integration of the system with DWC's case tracking system; (b) warehousing each claims administrator's data so each respective administrator could retrieve its data; (c) benchmarking data so a claims administrator can compare its performance against state-wide averages; and, (d) linkage to other data systems such as the rating bureau or DLSE to assist in objectives such as identifying uninsured employers.

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Different reports will be phased in starting September 1999 starting with the *first report of injury*. The proposed regulations allow claims administrator to seek and obtain a variance through July 1, 2000 under specified conditions. Initial implementation was delayed until September from July because the IAIABC standards upon with the system was originally designed were changed extensively requiring changes to the designed system. Also, the senior technical lead person for the implementation contractor died within six weeks of the final implementation. The contractor is funding external resources to address the setback. Therefore, transmitting data for additional reports (comparable to the current benefit notices) will begin in July 2000. Medical bill reports and medical payment reports will begin in December of 2000 and an annual summary in January 2002.

The first data should be available six months after the initial reporting requirements go into place. Based on other states' implementation experience, it may be another year before truly comprehensive data becomes available to take into account the "slow adopters."

Mr. Bellows reported that the hardware for the system is in place and the programming of the database and reports are basically finished. The detail of the actual EDI exchange -- the information flowing back and forth between the trading partners -- is a current focus of work. The division released a draft of implementation guidelines describing the EDI interchange that prompted many comments. Some of the smaller organizations were surprised by the new reporting requirements. Larger organizations -- especially those with vast experience with EDI reporting -- made a number of suggestions to avoid mistakes made in other states. The division has considered the comments to tighten up the specifications and make the system user friendly.

Proposed implementation regulations were presented August 1998. Since then, there have been two 15-day public comment periods. Changes to the most recent proposed regulations should be posted on the website and mailed shortly. Finalization of the regulations should occur in July 1999 for a September 1999 implementation date.

Commissioner Rankin asked if the change in the implementation date from July to September has alleviated some industry concerns. Mr. Bellows indicated that the two-month delay in and of itself has not made a big difference as implementation can be delayed until July 2000, if a hardship can be demonstrated with an earlier implementation. Commissioner Rankin asked if there was an enforcement mechanism. Mr. Bellows reported that there is no enforcement mechanism -- instead there is a set of inducements or incentives such as no need to submit paper to DLSR. Additionally, if an organization was incapable of providing any data, it might become an appropriate audit target although this is not currently stated in the audit regulations.

Commissioner Steinberg inquired as to how long the vendor has been on the job, when the contract commenced and the dollar amount of the contract. Mr. Bellows reported that

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there are two elements to the contract including the pilot phase. The contract itself started August 1998. The dollar size of the contract is approximately \$800,000.

Commissioner Steinberg stated that he understood that the purpose of the program was to receive and store data for analysis purposes rather than for tracking on the operation level of individual claim file handling. He asked what was the division's (DWC's) interpretation of Labor Code §138.6. Mr. Bellows said that the system was designed as a strategic support system. The Labor Code also requires an information system to help the DWC manage workers' compensation suggesting the information system must support that effort. Therefore, the division has a goal to expand and link the system into a modernized DWC case tracking system that would provide data for the internal management system.

Commissioner Steinberg asked if the division's information system would eventually have the features of the paperless system designed by SCIF. Mr. Bellows advised that the SCIF's system provides claim specific information whereby documents are scanned into the system for a particular claim file. Therefore, SCIF's system provides little facility for the aggregation of data across a whole range of cases because the data resides in a scanned file. The division's system was designed to pull particular pieces of data out of the files and into a database where they can be aggregated. While Mr. Bellows agreed that more claims specific information should be available for an injured worker making an inquiry, the division's suggestion to integrate its internal system as well as to modernize had been rejected in the past by the control agencies.

Report: New Partnership for Work and Health in California

Dr. John Frank, Visiting Professor at UC Berkeley's School of Public Health and co-founder of the Institute for Work and Health in Toronto, Canada

Ms. Baker advised that Dr. Frank was invited to provide information on his proposal to build a "New Partnership for Work and Health" in California. Also joining Dr. Frank in the audience was Dr. Robert C. Spear, a Professor and Director for the Center for Occupational and Environmental Health at UC Berkeley. Juliann Sum of the Labor Occupational Health Program at UC Berkeley and Dr. Niklas Krause, the Project Director of the Public Health Institute at Berkeley also were mentioned.

Dr. Frank said he was there to interest the Commission in the idea of building a stakeholder partner research initiative to address the policy and program issues faced by the multiple stakeholders represented on the Commission. In Ontario, Canada, there was an opportunity to build a structure to look at the practical problems associated with work-related disability. In 1991, employers and union employees developed a central capacity to research workplace and safety issues. As the program director, his organization studied a major cause of a work-related disability – low back pain. Below age 45, it is the most common cause of disability and the next most significant cause for those over 45

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years old. His organization studied how low back pain arises and what causes the chronicity of pain. The stakeholders, policy making bodies and government agencies were involved in setting the questions and deciding how the study would be implemented as well as getting results published in ordinary language for stakeholder use.

The first study, with the assistance of the Canadian autoworkers and General Motors Corporation, involved recently injured employees amongst 12,000 hourly workers. Both the psychological and social aspects were studied as well as the ergonomic loads on the back. From the study, they learned from the ergonomic perspective three forces acting independently of each other contributed to a low back injury -- about a doubling of the risk of injury requiring a visit to the nurse's station. Additionally, psychological factors such as conflict, feelings of over-education and lack of job control significantly contribute to injury. The findings were presented to a large union and corporation who are developing strategies to prevent injury even with the difficult labor relations.

Dr. Frank also said that the study indicated that three quarters of the costs and lost time due to back injuries are generated from seven or eight percent of the subjects -- workers disabled beyond six months. So, if prevention does not work, what can be designed to mitigate the effects of chronicity? Ironically, an expensive and well-designed physiotherapy program failed to make a difference. Because of the study, the physiotherapy program costing \$20 million dollar annually was terminated.

The workers' compensation board is now trying to find ways to direct intensive rehabilitation resources for those injured workers who are beginning to develop early signs of chronicity after three or four weeks of lost time. Evidence suggests that medical intervention for back pain -- unless a rare and serious cause -- may slow recovery because of iatrogenesis (doctor-caused disease or disability). Dr. Frank pointed out that their study looked at the entire environment -- including medical care -- to determine various contributions to the long-term chronic disease, disability, and absences.

Dr. Frank indicated that it is important to consider other medically certified sickness absences from a wider range of illnesses like coronary heart disease. Evidence over the last five years in world literature suggests that employees' perceptions about work may be linked to the development of heart disease. Yet, a physician does not inquire in depth about a patient's job or the feelings about it. In addition, early life factors that are linked to the development of later illnesses are not considered.

Other broader societal issues could be the subject of research. In every worker population studied, those at the bottom of the pay structure have a significantly higher death rate from all causes than those at the top.

Dr. Frank closed by asking if the Commission sympathized with the point of view expressed that long-term, applied research in work and health might be worth establishing in California. He recommended that such research include stakeholders' input into the agenda and shaping of the questions to produce research to assist the Commission. A key

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to the program would also involve putting the research into lay language for easier implementation and then evaluating whether research findings make a difference when implemented. Any such research would be reviewed by an independent scientific advisory body such as the Center for Occupational Environmental Health directed by Dr. Bob Spear.

Chairperson Schwenkmeyer asked if there were any questions from the Commission or the audience. Commissioner Rankin asked for a couple of examples of potential research. Dr. Frank suggested some research regarding family-friendly work force. One organization created a program that resulted in greater frequency of certified sickness absences than what was expected. Their study suggested environmental stresses on young women with children led to the results. The study provided an opportunity to reassess the family leave policy with the benefit of examination of data rather than "flying by the seat of one's pants", as is often done.

Commissioner Wilson suggested that a number of insurance companies have already sponsored this type of research as well as large corporations. He suggested that those efforts should be coordinated.

Update and Discussion Regarding Commission Studies and New Proposals

Christine Baker, Executive Officer

Ms. Baker reported on various Commission staff activities since the last meeting. The Commission's office move to the new state building in the San Francisco civic center was relatively smooth and she expressed her appreciation to the Department of Industrial Relations for its assistance.

Additionally, over the last couple of months, Ms. Baker made presentations on Commission activities to several organizations and gatherings. These included the "Integrated Health, Disability and Work/Life Initiatives" seminar, the Agricultural Personnel Management Association, the California Self-Insurers Association meeting, the Workers' Compensation Research Institute conference in Cambridge, the Assembly Committee on Insurance to report on workers' compensation reform, the IAIABC All-Committee Meeting in Texas, the AFL-CIO Legislative Committee, the CWCI Claims Committee, and the Californians for Compensation Reform Legislative Conference. The Commission received positive feedback on all of the presentations.

Status Report on the DWC Audit Project

Ms. Baker reported that the Division of Workers' Compensation held a meeting on April 30, 1999 to determine whether some recommendations from the Commission's study report on the DWC Audit Unit function could be adopted administratively. The DWC

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will open the regulatory process to address concerns in the Commission's report. Areas to be addressed include the sampling for random selection and possibly the concept of a preliminary audit review.

Status Report on the Permanent Disability Project

The research on the self-insured employers and the impact of local area economic conditions is under way. The self-insured portion of the wage-loss study has been delayed because of information security issues within the Employment Development Department (EDD). The data-linking difficulty has been solved and all data should now be sent to RAND. Preliminary results on private self-insured employers are expected at the end of July.

Status Report on the California Study Group on Young Worker Health and Safety

The Commission is funding the task force charged with coordinating strategies to protect young people from work-related illness and injury. The study group is composed of groups and individuals dealing with California youth employment and education issues. At the last study group meeting held in April, each sub-committee reported on their efforts: the Public awareness Campaign, the Resource Center, the Work Permit System and the Government Agency meeting room. The Commission's executive officer met with DIR Director Stephen J. Smith to discuss possible steps to be taken regarding the study group recommendations.

Ms. Baker stated that the Public Awareness Campaign proclamation and executive order have been drafted and provided to Director Stephen Smith, who will initiate a Governor's Action Request. Director Smith will put forth the concept of convening an inter-agency group to implement the executive order. The resource center concept is being proposed legislatively.

Status Report on the DMV Project

Ms. Baker advised that an executive summary had been prepared which identified problems associated with the Department of Motor Vehicles (DMV) meeting the intent of Section 34633 of the California Vehicle Code (CVC). This section requires that the DMV collect workers' compensation insurance information from motor carrier operators through the permit renewal process. The staff recommended that the Commission consider convening a small advisory group to review the issues and propose new solution.

CHSWC Action

Chairperson Schwenkmeyer asked if there were a motion. Commissioner O'Hara moved that a task force be convened to study the issue and recommend a solution. Commissioner Rankin seconded the motion, which passed unanimously.

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Status Report on the WCRI Compscope California Project

Ms. Baker said that at the last meeting, Commissioner Dulich requested that staff explore the feasibility of funding the WCRI's Compscope California Project. After discussions with legal staff and other administrative control personnel, it was determined that the Commission cannot "gift" public funds in the suggested matter, but instead would have to go out to sole source justification and establish a contract. Therefore, staff believes that the Commission can take no further actions with the WCRI Compscope project other than those of an advisory nature.

Status Report on the Labor Code §5814 Project

Ms. Baker stated that since the distribution of the Commission's issue paper on Labor Code §5814, comments have been received from the California Manufacturers Association, the California Self-Insurers, and the American Insurance Association. Commission staff suggested additional data collection, including exploring the feasibility of collecting data from the WCAB regarding the number of incidents and types of Section 5814 penalties.

CHSWC Action

Commissioner Wilson moved that Commission staff explore the feasibility of collecting data from the WCAB regarding the number of incidents and types of Section 5814 penalties. Commissioner Dulich seconded the motion, which passed unanimously.

Status Report on the IAIABC Safety Committee Work

Ms. Baker reported on her service as chair of the Safety Committee of the International Association of Industrial Accident Boards and Commissions (IAIABC). The Committee in the past had suffered from a lack of implementation strategies and now the members are interested in the information the Commission is producing for improving enforcement and targeting intervention. The safety issues will take the forefront of the September 1999 IAIABC national convention in Washington, DC.

A proposal to study public safety employees, their benefits, and the Labor Code Section 4850 issue was provided to the Commission. A report would be prepared describing the various approaches to compensating public safety employees nationally. Policy makers could evaluate the practices of California and other states and identify innovative approaches. For a total of \$15,000, a graduate student could work under Robert Reville's supervision at RAND and could compliment the Commission's work being currently conducted at RAND.

CHSWC Action

Commissioner McLeod moved that the Commission study the issue. Commissioner Wilson seconded and the motion passed unanimously.

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CHSWC Action

Commissioner McLeod moved that the Commission study the issue. Commissioner Wilson seconded and the motion passed unanimously.

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Status Report on the Local Rules Issue

Ms. Baker stated that Labor Code §5500.3 requires uniformity within the DWC district offices. Commissioner Jill Dulich has requested that the Commission staff research the issue. Ms. Baker suggested a call for information that could be evaluated by the Commission's legal consultants to advise as to the nature and degree of the problem. Ms. Baker advised that both Peggy Sugarman, the Chief Deputy Director of the DWC, and Dennis Hannigan, the Deputy Commission and Secretary for the WCAB have been contacted to advise them of the Commission's interest in this issue. Both felt such a study might be useful.

CHSWC Action

Commissioner Dulich moved that the Commission issue a call for information to the community, Commissioner Rankin seconded, and the motion passed unanimously.

Status of the CHSWC Annual Report

Ms. Baker stated that work continues on the 1998-1999 CHSWC annual report. The Commission will have a draft of the annual report to discuss at the next meeting.

Other Business / Public Questions / Comments

Medical Fee Schedule

Commissioner Dulich stated that the IMC is studying the medical fee schedule issue with UCLA and suggested that the Commission partner with them. She thought that the study is directed largely towards the mechanisms by which medical fee schedules are adopted in other states in addition to the federal government. She suggested that the Commission evaluate the methodology used by other states and other fee schedules. She also suggested looking at the additional processes resulting from recent changes to the current fee schedule that have added to system complexity. Chairperson Schwenkmeyer invited discussion.

Dr. Linda Rudolph, the medical director for the DWC, expressed delight that the IMC is more actively involved but would welcome additional input from the Commission on where to go next after the IMC's initial short term UCLA contract. Dr. Rudolph indicated that revising the fee schedule every couple of years is labor intensive in its current form of relative values that are internally inconsistent. The current contract with UCLA involves looking at other structures for a fee schedule designed to take into account actual medical services. Essentially, the UCLA contractor will produce a document that defines how an RBRVS-based schedule works, looks at the different RBRVS-based schedules in existence besides Medicare and assesses how other states have introduced RBRVS-based schedules. The report will also identify issues associated

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with implementation of an RBRVS-based fee schedule. Issues would include identification of who gains and who loses, how to adjust for the fact that a resource-based relativity in workers' compensation is different than in Medicare, how to guard against great dislocation because of a significant change in the schedule all at once, and implementation and educational issues.

Commissioner Rankin suggested that a discussion of the Official Medical Fee Schedule be included on the agenda of the next Commission meeting.

Adjournment


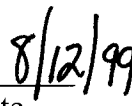
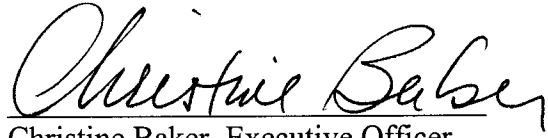
Chairperson Schwenkmeyer adjourned the meeting at 12:10 p.m.

Future Meetings

The next meeting of the Commission will be held on Thursday, August 12, 1999 in San Francisco.

Approved:

Respectfully submitted,

		
Kristen Schwenkmeyer, Chair	Date	Christine Baker, Executive Officer